

Message Text

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ACTION ERDA-07

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DODE-00 EB-07 EPA-04 INR-07 IO-11 L-03 NSF-02 NSC-05

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R 091446Z APR 76

FM AMEMBASSY PARIS

TO SECSTATE WASHDC 9674

UNCLAS SECTION 01 OF 05 PARIS 10473

DEPT PASS ERDA: NELSON SIEVERING

E.O. 11652: N/A

TAGS: TECH, FR

SUBJECT: CNRS-ERDA SOLAR BOILER COOPERATION MOU

REF: PARIS 06245

1. EMBASSY DELIVERED TO CNRS REVISED DRAFT OF SUBJECT MOU ON MARCH 25, WHICH WAS THE CNRS VERSION OF DECEMBER 12, 1975, WITH THE FOLLOWING CHANGES: A) ERDA'S SUGGESTED CHANGES TO PARAGRAPH 6 OF ARTICLE III REGARDING RESPONSIBILITIES; B) THE CREATION OF ONE COMMITTEE WHICH WOULD BE RESPONSIBLE FOR OVERSEEING THE TECHNICAL COORDINATION OF THE JOINT WORK, APPLICATION OF PROPER SAFETY STANDARDS, AND WOULD REVIEW AND SETTLE ANY DISAGREEMENTS; C) A REVISED SECTION ON PATENTS, ARTICLE V, WHICH WOULD GIVE CNRS TITLE TO NEW PATENTS IN FRANCE, TITLE TO NEW PATENTS BASED ON THE CNRS ODEILLO FACILITY IN ALL THIRD COUNTRIES, AND RIGHTS TO PATENTS ON THE ERDA BOILER IN ALL THIRD COUNTRIES (ERDA RECEIVING COMPLEMENTARY TITLES AND RIGHTS); D) OTHER MINOR LANGUAGE CHANGES. THE TEXT AS DELIVERED IS REPEATED IN THIS CABLE.

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2. THE INTERNATIONAL RELATIONS OFFICE OF CNRS REPORTED TO THE EMBASSY ON APRIL 8 THAT PROFESSOR CHABBAL, DIRECTOR OF THE FRENCH SOLAR ENERGY AGENCY AND A SCIENTIFIC DIRECTOR OF CNRS, IS VISITING THE U.S. (APRIL 1-8) AND PLANNED TO DISCUSS THE TEXT WITH APPROPRIATE AUTHORITIES. CHABBAL IS SCHEDULED TO RETURN TO PARIS EARLY THE WEEK OF APRIL 12, AND THE EMBASSY WILL BE ADVISED ON APRIL 13 OR 14 OF THE CNRS REACTIONS TO THE DRAFT CONTAINED IN THIS CABLE. CNRS ALSO NOTED THAT ITS DIRECTOR GENERAL, BERNARD GREGORY, WOULD BE VISITING THE U.S. IN EARLY MAY AND, IF NECESSARY, COULD FURTHER DISCUSS THE MOU AT THAT TIME.

3. IT IS OUR UNDERSTANDING THAT THE ONE REMAINING PROBLEM IS THAT PERTAINING TO PATENTS. THE FRENCH WANT A GUARANTEED FAIR SHARE OF THE POTENTIAL COMMERCIAL BENEFITS THAT COULD ACCRUE FROM PATENTS DEVELOPING FROM THE JOINT PROGRAM. HAVING TITLE OR FULL RIGHTS WITH ERDA OR A U.S. MANUFACTURER, HAVING EQUAL ACCESS DOES NOT OFFER CNRS ANY GUARANTEE OF A FAIR SHARE OF THE PROFITS. THE FACT THAT BOTH PARTIES HAVE EQUAL OPPORTUNITY AT THE PROFITS APPARENTLY DOES NOT SATISFY THE FRENCH. FROM OUR POINT OF VIEW, THE TEXT CONTAINED IN THIS CABLE SHOULD BE THE LIMIT OF THE U.S. CONCESSIONS, AND IF THE FRENCH PROCRASTINATE TOO LONG, THE COOPERATIVE PROGRAM SHOULD BE CALLED OFF AND THE TESTING SCHEDULED FOR THE NEW U.S. FACILITY WHEN IT COMES INTO OPERATION.

4. THE EMBASSY WOULD APPRECIATE RECEIVING TELEGRAPHIC REPORTS ON ANY DISCUSSIONS PERTINENT TO THIS MATTER HELD DURING CHABBAL'S VISIT TO THE U.S. OR OTHER RELEVANT DEPARTMENT OR ERDA COMMENTS. THE FOLLOWING PARAGRAPHS CONTAIN THE ENTIRE TEXT OF THE DRAFT MOU DELIVERED TO CNRS ON MARCH 25, 1976.

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FM AMEMBASSY PARIS

TO SECSTATE WASHDC 9675

UNCLAS SECTION 02 OF 05 PARIS 10473

MEMORANDUM OF UNDERSTANDING BETWEEN
THE UNITED STATES ENERGY RESEARCH AND
DEVELOPMENT ADMINISTRATION AND THE
NATIONAL CENTER FOR SCIENTIFIC RESEARCH
OF THE GOVERNMENT OF THE REPUBLIC OF FRANCE
FOR COOPERATION IN JOINT RESEARCH ON
SOLAR THERMAL CONVERSION SYSTEMS

I. FOREWORD

WHEREAS THE GOVERNMENT OF THE UNITED STATES AND THE
GOVERNMENT OF THE FRENCH REPUBLIC HAVE, IN JOINT
STATEMENTS ON COOPERATION IN SCIENCE AND TECHNOLOGY
RELEASED ON SEPTEMBER 23, 1969 AND NOVEMBER 25, 1969,
EXPRESSED THE INTENTION TO COOPERATE THROUGH THEIR
RESPECTIVE AGENCIES AND INSTITUTES IN ACTIVITIES TO
EXPLORE METHODS OF PROVIDING ALTERNATIVE ENERGY
SOURCES;

AND WHEREAS THE NATIONAL SCIENCE FOUNDATION OF THE
U.S. (NSF) AND THE NATIONAL CENTER FOR SCIENTIFIC
RESEARCH OF THE REPUBLIC OF FRANCE (CNRS) HAVE BEEN
COOPERATING IN THE STUDY, RESEARCH, AND EVALUATION OF
COMPONENTS, SUBSYSTEMS, AND SYSTEMS FOR THE THERMAL
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CONVERSION OF SOLAR ENERGY INTO ELECTRICAL POWER
THROUGH AN AGREEMENT SIGNED ON JUNE 24, 1974 BETWEEN
THE GEORGIA INSTITUTE OF TECHNOLOGY (GIT) AND CNRS;
AND WHEREAS THE UNITED STATES ENERGY RESEARCH AND
DEVELOPMENT ADMINISTRATION (ERDA) AND CNRS, HEREINAFTER
REFERRED TO AS THE PARTIES, DESIRE TO CONTINUE THE
AFORESAID PROGRAM OF COOPERATION;
NOW, THEREFORE, THE PARTIES HEREBY AGREE AS FOLLOWS:

II. PRINCIPLES

1. IT IS THE IMMEDIATE AIM OF THIS COOPERATIVE

EFFORT TO (A) SHARE INFORMATION ON RESEARCH REGARDING THE DESIGN AND PROTOTYPE CONSTRUCTION OF SOLAR BOILERS, (B) PROCEED WITH THE EFFORT UNDERTAKEN IN THE AFORESAID AGREEMENT BETWEEN CNRS AND THE GIT REGARDING THE DEVELOPMENT OF SOLAR BOILERS, (C) TEST AND EVALUATE AT THE CNRS FACILITIES IN ODEILLO, FRANCE, SEVERAL PROTOTYPE COMPONENTS, SUCH AS SOLAR COLLECTORS AND BOILER/SUPERHEATERS, ALONG WITH ANCILLARY CONTROLS AND EQUIPMENT ESSENTIAL TO THESE TESTS.

2. THE DATA RESULTING FROM THE COOPERATIVE TEST PROGRAMS WILL BE FREELY AVAILABLE TO CNRS AND ERDA AND MAY BE UTILIZED BY THE PARTIES AS THEY MAY DEEM APPROPRIATE, INCLUDING USE IN THE STUDY AND DESIGN OF SOLAR THERMAL CONVERSION SYSTEMS.

3. THE COOPERATIVE EFFORTS CONTEMPLATED BY THIS MEMORANDUM OF UNDERSTANDING SHALL BE CONDUCTED BY THE PARTIES, ACTING ON THEIR OWN BEHALF OR THROUGH THEIR DESIGNATED CONTRACTORS OR REPRESENTATIVES, AT THE CNRS FACILITIES AT ODEILLO, FRANCE, AND SUCH OTHER LOCATIONS AS MAY BE AGREED BY THE PARTIES.

4. THE PARTIES MAY EXTEND THEIR ACTIVITIES UNDER THIS AGREEMENT TO RESEARCH ON OTHER COMPONENTS AND SUBSYSTEMS ASSOCIATED WITH SOLAR THERMAL CONVERSION SYSTEMS, SUCH AS HELIOSTATS, GUIDANCE AND CONTROL EQUIPMENT, AND HEAT EXCHANGERS. FUTURE RESEARCH IN THIS AREA WOULD BE MADE THE SUBJECT OF FURTHER AGREEMENTS.

5. NOTHING IN THIS MEMORANDUM OF UNDERSTANDING SHALL AFFECT EXISTING AGREEMENTS OR OTHER ARRANGEMENTS

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BETWEEN AGENCIES OR ORGANIZATIONS OF THE GOVERNMENT OF THE UNITED STATES AND THE GOVERNMENT OF FRANCE.

III. CONDUCT OF THE PROGRAM

1. A JOINT COMMITTEE COMPOSED OF SIX MEMBERS IS HEREBY ESTABLISHED TO COORDINATE THE PROGRAM CONTEMPLATED BY THIS MEMORANDUM, ENSURE APPROPRIATE SAFETY PRACTICES, AND SETTLE DISAGREEMENTS. ERDA AND CNRS SHALL APPOINT THREE MEMBERS OF THE COMMITTEE. THE JOINT COMMITTEE SHALL MEET AT LEAST ONCE A YEAR AND AT ANY MOMENT AT THE REQUEST OF ONE OF ITS MEMBERS AND WITHIN A PERIOD NOT EXCEEDING ONE WEEK.

2. PROTOTYPE SUBSYSTEMS, SUCH AS BOILER/SUPERHEATERS, WILL BE PROVIDED BY ERDA, TO BE TESTED BY CNRS AT ITS FACILITIES IN ODEILLO, FRANCE. ERDA WILL SUPPLY SUBSYSTEMS UP TO THE INTERFACES WITH THE SOLAR FURNACE AND WILL PROVIDE PERSONNEL TO CHECK OUT THE SUBSYSTEMS PRIOR TO CONNECTION WITH THE FURNACE

AND TO ASSIST, AS NEEDED, WITH ITS CONNECTION TO THE
FURNACE, POST-CONNECTION CHECKOUT, OVERALL TESTING,
AND DATA REDUCTION. ERDA AND CNRS WILL HAVE JOINT

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RESPONSIBILITIES IN THE EVALUATION OF THE
EXPERIMENTAL DATA. UNLESS OTHERWISE AGREED, EQUIPMENT
OR MATERIAL FURNISHED BY ERDA SHALL BE DELIVERED BY
ERDA TO THE CNRS SITE DESIGNATED BY CNRS AT THE TIME
OR TIMES AGREED UPON BY THE PARTIES; AND ERDA SHALL
ASSUME ALL RESPONSIBILITY FOR SUCH DELIVERY TO THE
DESIGNATED SITE OR SITES. UNLESS OTHERWISE AGREED,
TITLE TO ANY EQUIPMENT OR MATERIAL FURNISHED BY ERDA
SHALL REMAIN IN ERDA, WHICH SHALL ARRANGE FOR
DISPOSITION OF THE MATERIAL OR EQUIPMENT AT THE
CONCLUSION OF THE ACTIVITY FOR WHICH IT IS SUPPLIED.

3. CNRS WILL FURNISH PERSONNEL AND NECESSARY
EQUIPMENT AND MATERIALS FOR CONNECTING THE ERDA
PROTOTYPE SUBSYSTEMS TO THE INTERFACES OF THE FURNACE,
FOR CHECKING OUT THE SUBSYSTEMS AFTER CONNECTIONS, FOR
TESTING AND FOR SUPPORTING THE GENERAL OPERATION OF THE
CNRS FACILITIES, AS NEEDED. TESTS INVOLVING THE USE

OF THE CNRS 1000 KW. SOLAR FURNACE FOR EXPERIMENTS
WILL BE THE RESPONSIBILITY OF THE CNRS STAFF.

4. TO THE MAXIMUM EXTENT POSSIBLE AND CONSISTENT
WITH SOUND MANAGEMENT AND OPERATIONAL SAFETY, PLANS
FOR INSTALLATION, CHECKOUT, AND TESTING OR CHANGES IN
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DESIGN WILL BE FORMULATED AND IMPLEMENTED BY DIRECT
CONTACT OR INTERCHANGE BETWEEN INTERESTED SCIENTISTS
REPRESENTING ERDA, OR ITS CONTRACTORS, AND CNRS, OR ITS
DESIGNATED REPRESENTATIVES. IT IS RECONGNIZED THAT
COMPONENTS, SUBSYSTEMS, OR SYSTEMS FURNISHED BY ERDA
FOR TESTING, AND THE TEST PROCEDURES THEMSELVES, MUST
COMPLY WITH ESTABLISHED SAFETY PROCEDURES AT THE
FACILITIES.

5. IN CASE OF DISAGREEMENT OVER THE PLAN OR
POSSIBLE CHANGES TO THE TEST MODEL'S SUBSYSTEMS, THE
JOINT COMMITTEE SHALL ENDEAVOR TO ARRIVE AT A SOLUTION
ACCEPTABLE TO THE PARTIES. IN CASE OF PERSISTING
DISAGREEMENT, PROVISIONS MADE IN SECTION VII,
PARAGRAPH 5, SHALL APPLY.

6. THE JOINT COMMITTEE WILL CHECK OUT THE SAFETY
CONDITIONS AND THE FUNCTIONING OF THE CNRS FACILITY
AND THE COMPONENTS, SUBSYSTEMS, OR SYSTEMS FURNISHED BY
ERDA FOR TESTING, AND WILL MAKE ALL RECOMMENDATIONS IT
DEEMS NECESSARY.

IN CASE OF AN ACCIDENT INVOLVING THE CNRS FACILITY
AND THE COMPONENTS, SUBSYSTEMS, OR SYSTEMS FURNISHED
BY ERDA FOR TESTING, THE JOINT COMMITTEE SHALL
ENDEAVOR TO REACH CONCLUSIONS AS TO THE RESPONSIBILITIES
THEREFOR AND TRANSMIT THE CONCLUSIONS TO THE CNRS AND
ERDA.

IN CASE OF DISAGREEMENT, PROVISIONS MADE IN
SECTION VII, PARAGRAPH 5, SHALL APPLY. NOTWITHSTANDING
THE FOREGOING PROVISION OF THIS SECTION, EACH PARTY
ASSUMES RESPONSIBILITY FOR THE SAFE OPERATION OF ITS
FACILITY OR COMPONENTS, SUBSYSTEMS, OR SYSTEMS AND
AGREES TO INDEMNIFY THE OTHER PARTY OR ANY PERSON
ACTING ON BEHALF OF THE OTHER PARTY FROM ANY AND ALL
LIABILITY WHICH MAY RESULT FROM THE OPERATION OF ITS
FACILITY OR COMPONENTS, SUBSYSTEMS, OR SYSTEMS.

7. IMMEDIATELY PRECEDING AND DURING THE TEST
PERIOD, MEMBERS OF THE JOINT COMMITTEE SHALL ENDEAVOR
TO MAKE THEMSELVES AVAILABLE FOR CONSULTATION AT LEAST
BY TELEPHONE.

8. THE PARTIES AGREE THAT EACH SIDE WILL SHARE
IN THE EFFORT AND THE COST OF APPROVED ACTIVITIES BY
PROVIDING FOR THE COST OF ITS PARTICIPATION IN
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ACTIVITIES CARRIED OUT HEREUNDER. THIS PROVISION, HOWEVER, DOES NOT REQUIRE PRECISE MATCHING OF FUNDS, MANPOWER, OR FACILITIES.

9. WITHIN FOUR MONTHS AFTER COMPLETION OR CESSATION OF TESTING, A JOINT EVALUATION REPORT SHALL BE PREPARED. EACH PARTY'S OBLIGATION TO PARTICIPATE IN THE PREPARATION OF THIS REPORT MAY BE DISCHARGED BY PERSONS ACTING ON ITS BEHALF.

IV. DATA

1. SCIENTIFIC AND TECHNICAL RESULTS, INFORMATION, AND DATA RESULTING FROM THE PROGRAM ACTIVITIES SET FORTH IN SECTION III WILL BE FREELY AVAILABLE TO BOTH ERDA AND CNRS FOR THEIR USE OR FOR USE BY OTHER PERSONS AS EITHER PARTY MAY DEEM APPROPRIATE.

2. EACH PARTY WILL BE PERMITTED TO DISSEMINATE THESE DATA AS PUBLICATIONS IN SCIENTIFIC JOURNALS OR BY OTHER CHANNELS CUSTOMARY TO THE SCIENTIFIC COMMUNITY.

3. THIS SECTION (IV) APPLIES ONLY TO SCIENTIFIC AND TECHNICAL INFORMATION AND DATA NOT

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SUBJECT TO THE PROVISIONS OF SECTION V.

V. INVENTIONS

A. IT IS ACKNOWLEDGED THAT THE CNRS FACILITY TO BE USED IN THE PRESENT TEST AND EVALUATION AT ODEILLO WAS ORIGINATED BY CNRS AND THAT THE BOILER/SUPERHEATER SUBSYSTEM TO BE TESTED WAS ORIGINATED BY ERDA. AS TO THIS FACILITY AND THIS SUBSYSTEM, THIS AGREEMENT SHALL NOT AFFECT EXISTING RIGHTS BETWEEN THE PARTIES TO THE INVENTIONS CONCEIVED OR FIRST ACTUALLY REDUCED TO PRACTICE PRIOR TO THIS AGREEMENT.

B. WITH RESPECT TO ANY INVENTION OR DISCOVERY MADE OR CONCEIVED IN CONNECTION WITH THE JOINT WORK EFFORT UNDER THIS MEMORANDUM OF UNDERSTANDING, THE INVENTION AND PATENT RIGHTS WILL BE ALLOCATED IN ACCORDANCE WITH THE FOLLOWING PRINCIPLES:

1. EACH PARTY SHALL DETERMINE THE ALLOCATION OF ALL RIGHTS IN SUCH INVENTION IN ITS OWN COUNTRY, SUBJECT TO A NONEXCLUSIVE, IRREVOCABLE, ROYALTY-FREE LICENSE TO THE OTHER PARTY WITH THE RIGHT TO GRANT SUBLICENSES UNDER SUCH INVENTIONS TO ITS OWN NATIONALS.
2. AS TO THE RIGHT TO ACQUIRE PATENTS IN

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THIRD COUNTRIES TO INVENTIONS MADE IN THE COURSE OF THIS EXCHANGE:

- I. CNRS SHALL HAVE THIS RIGHT AS TO INVENTIONS IN THE CNRS FACILITY SYSTEM AND COMPONENTS, SUBJECT TO A NONEXCLUSIVE, IRREVOCABLE, ROYALTY-FREE LICENSE TO ERDA WITH THE RIGHT TO GRANT SUBLICENSES UNDER SUCH INVENTION TO ITS OWN NATIONALS, AND
- II. ERDA SHALL HAVE THIS RIGHT AS TO INVENTIONS IN THE SUBSYSTEM BOILER/SUPER-HEATER, AND ANY OTHER SUBSYSTEMS OR COMPONENTS ORIGINATED AND SUPPLIED TO CNRS BY ERDA FOR TESTING, SUBJECT TO A NONEXCLUSIVE, IRREVOCABLE, ROYALTY-FREE LICENSE TO CNRS WITH THE RIGHT TO GRANT SUBLICENSES UNDER SUCH INVENTION TO ITS OWN NATIONALS.

C. THE PARTIES TO THIS MEMORANDUM SHALL PROVIDE ALL NECESSARY COOPERATION FROM ITS INVENTORS TO CARRY OUT THE PROVISIONS OF PARAGRAPHS A. AND B. ABOVE.

D. EACH PARTY TO THIS MEMORANDUM SHALL ASSUME THE RESPONSIBILITY TO PAY AWARDS OR COMPENSATION

REQUIRED TO BE PAID TO ITS OWN NATIONALS ACCORDING TO ITS OWN LAWS.

E. DISCLOSURE OF INVENTIONS MADE BY ONE PARTY TO THE OTHER DURING THE COURSE OF ANY TECHNICAL INTERCHANGE OR REVIEW SHALL BE HELD CONFIDENTIAL FOR THE PERIOD NECESSARY TO FILE PATENT APPLICATIONS IN THE COUNTRY OF EITHER PARTY.

F. THE JOINT COMMITTEE ESTABLISHED IN SECTION III IS RESPONSIBLE FOR COORDINATING MATTERS AND SETTLING DISPUTES RESULTING FROM THE APPLICATION OF PARAGRAPHS A. AND B.

G. THE MEANING OF "PARTY" OF THIS SECTION V SHALL INCLUDE THE GRANTEE OR CONTRACTOR OF A PARTY.

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VI. AVAILABILITY OF FUNDS

RESPONSIBILITIES OF THE PARTIES ARE SUBJECT TO THE AVAILABILITY OF APPROPRIATIONS AS SUCH APPROPRIATIONS ARE DETERMINED IN ACCORDANCE WITH APPLICABLE LAWS.

VII. FINAL PROVISIONS

1. THIS MEMORANDUM WILL BECOME EFFECTIVE UPON SIGNATURE BY THE FULLY AUTHORIZED REPRESENTATIVES OF BOTH PARTIES AND WILL REMAIN IN EFFECT FOR TWO YEARS AFTER THE DATE OF SIGNATURE.

2. BY MUTUAL CONSENT OF THE PARTIES, THIS MEMORANDUM MAY BE RENEWED FOR ADDITIONAL PERIODS AND MAY AT ANY TIME BE MODIFIED.

3. THIS MEMORANDUM OF UNDERSTANDING MAY BE TERMINATED AT ANY TIME UPON WRITTEN NOTICE BY ONE PARTY TO THE OTHER TO BECOME EFFECTIVE THREE MONTHS FROM THE DATE OF RECEIPT OF SUCH NOTICE.

4. THE TERMINATION, CANCELLATION, EXPIRATION, OR AMENDMENT OF THIS AGREEMENT MAY, IF THE PARTIES AGREE, NOT AFFECT THE COMPLETION OF ANY ONGOING PROGRAM OR TESTING UNDERTAKEN IN ACCORDANCE WITH THIS UNCLASSIFIED

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AGREEMENT.

5. IN CASE OF DISAGREEMENT REGARDING INTERPRETATION OR APPLICATION OF THE PROVISIONS OF THIS MEMORANDUM NOT SETTLED BY THE JOINT COMMITTEE, CNRS AND ERDA SHALL CONSULT FOR THE PURPOSE OF AMICABLY SETTLING THE DISPUTE.

6. THE PARTIES AGREE THAT NO CLASSIFIED INFORMATION WILL BE TRANSFERRED UNDER THIS MEMORANDUM.

IN WITNESS WHEREOF, THE PARTIES HAVE EXECUTED THIS MEMORANDUM ON

FOR THE ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION FOR THE NATIONAL CENTER FOR SCIENTIFIC RESEARCH

ROBERT HIRSCH	PIERRE CREYSEL
(NAME AND TITLE)	(NAME AND TITLE)

DATE:
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